

same issue(s), and this previous determination or decision has become binding by either administrative or judicial action.

(7) The enrollee abandons the request for hearing. An ALJ may conclude that an enrollee has abandoned a request for hearing when the ALJ hearing office attempts to schedule a hearing and is unable to contact the enrollee after making reasonable efforts to do so.

(8) Consistent with § 423.1972(c)(1), the ALJ dismisses a hearing request if a request clearly shows that the amount in controversy is less than that required under § 423.1970.

(b) *Notice of dismissal.* The ALJ mails a written notice of the dismissal of the hearing request to the enrollee at his or her last known address. The written notice provides that there is a right to request that the MAC vacate the dismissal action.

(c) *Discontinuation of a hearing.* Consistent with § 423.1972(c)(2), the ALJ discontinues a hearing and does not rule on the substantive issues raised in the appeal if, after a hearing is initiated, the ALJ finds that the amount in controversy is less than the amount required under § 423.1970.

§ 423.2054 Effect of dismissal of a request for a hearing before an ALJ.

The dismissal of a request for a hearing is binding, unless it is vacated by the MAC under § 423.2108(b).

§ 423.2062 Applicability of policies not binding on the ALJ and MAC.

(a) ALJs and the MAC are not bound by CMS program guidance, such as program memoranda and manual instructions, but will give substantial deference to these policies if they are applicable to a particular case.

(b) If an ALJ or MAC declines to follow a policy in a particular case, the ALJ or MAC decision must explain the reasons why the policy was not followed. An ALJ or MAC decision to disregard a policy applies only to the specific coverage determination being considered and does not have precedential effect.

§ 423.2063 Applicability of laws, regulations and CMS Rulings.

(a) All laws and regulations pertaining to the Medicare programs, including, but not limited to Titles XI, XVIII, and XIX of the Social Security Act and applicable implementing regulations, are binding on ALJs and the MAC.

(b) CMS Rulings are published under the authority of the CMS Administrator. Consistent with § 401.108 of this chapter, rulings are binding on all CMS components, and on all HHS components that adjudicate matters under the jurisdiction of CMS.

§ 423.2100 Medicare appeals council review: general.

(a) Consistent with § 423.1974, the enrollee may request that the MAC review an ALJ's decision or dismissal.

(b) When the MAC reviews an ALJ's written decision, it undertakes a de novo review.

(c) The MAC issues a final decision, dismissal order, or remands a case no later than the end of the 90 calendar period beginning on the date the request for review is received (by the entity specified in the ALJ's written notice of decision), unless the 90 calendar day period is extended as provided in this subpart or the enrollee requests expedited MAC review.

(d) If an enrollee requests expedited MAC review, the MAC issues a final decision, dismissal order or remand as expeditiously as the enrollee's health condition requires, but no later than the end of the 10 calendar day period beginning on the date the request for review is received (by the entity specified in the ALJ's written notice of decision), unless the 10 calendar day period is extended as provided in this subpart.

§ 423.2102 Request for MAC review when ALJ issues decision or dismissal.

(a)(1) An enrollee to the ALJ hearing may request a MAC review if the enrollee files a written request for a MAC review within 60 calendar days after receipt of the ALJ's written decision or dismissal.

(2) An enrollee may request that MAC review be expedited if the appeal involves an issue specified in § 423.566(b)